

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

TYRONE B. HENDERSON, KELVIN  
THOMAS, RONALD JOHNSON, and  
PAMELA EDWARDS, on behalf of  
themselves and others similarly situated,

Plaintiffs,

v.

BACKGROUNDCHECKS.COM (in its own  
name and trading as ebackgroundchecks.com),

Defendant.

Civil Action No. 3:13cv029-REP

**JOINT STATUS REPORT AND MOTION TO  
CONTINUE TEMPORARY STAY OF PRETRIAL DEADLINES**

Pursuant to the Court's April 3, 2014 Order (Dkt. No. 62), Plaintiffs Tyrone Henderson, Kelvin Thomas, Ronald Johnson, and Pamela Edwards and Defendant Backgroundchecks.com ("BGC") provide this Joint Status Report and move the Court to continue the temporary stay of pretrial deadlines.

**PROCEDURAL HISTORY**

1. On January 11, 2013, Plaintiffs filed this putative nationwide class action against BGC alleging violations of the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681 *et seq.*
2. On April 8, 2013, Plaintiffs filed their Amended Complaint (Dkt. No. 24) and on April 30, 2013, Plaintiffs filed their Second Amended Complaint (Dkt. No. 35).
3. Over the course of more than six months, the parties engaged in substantial written and deposition discovery.

4. In November 2014, the parties began – and are continuing – diligent and extensive efforts to settle this matter. As such, the Court stayed all pretrial deadlines to allow the parties to pursue settlement options.

5. On March 12, 2014, counsel for the parties convened a formal mediation in Atlanta, GA at the offices of BGC's counsel with mediator Rodney Max, a nationally-prominent mediator who is associated with Upchurch Watson White & Max. Counsel for all of the parties attended that mediation, as well as BGC's CEO and representatives from several of BGC's insurance companies.

6. At the March 12, 2014 mediation, the parties made progress toward potentially reaching a resolution of this matter but they did not reach a settlement.

7. Per the suggestion of Mr. Max and the agreement of the parties, counsel for the parties continued to discuss the possibility of settlement following the first mediation and scheduled a second mediation session to continue their discussions. At the same time, BGC's General Counsel undertook discussions with Community Legal Services in Philadelphia about procedure changes to be included in a potential settlement.

8. On April 29, 2014, the parties convened a second formal mediation with Mr. Max in Atlanta, attended by sixteen key players: five attorneys for Plaintiffs, three outside attorneys for BGC, BGC's CEO, BGC's General Counsel, and five attorneys representing four separate insurance carriers.

9. At the April 29, 2014 mediation, the parties continued to make progress toward potentially reaching a resolution of this matter but again did not reach a settlement. The failure to reach a settlement was due to the many complex issues involved in this case, some of which

have been brought to the Court's attention in the pending related case of *Liberty Mutual Fire Insurance Co. v. General Information Services, Inc. et al.*, No. 3:13-cv-00375-REP.

10. The parties continue to actively discuss the potential settlement of this action, including the scheduling of additional mediation sessions and exchange of settlement proposals. Specifically, the parties are exchanging offers and counteroffers between mediations, including through the mediator by telephone. To that end, the parties have scheduled a third mediation session on the earliest possible date that works for the large number of parties and counsel involved – June 23, 2014. The parties' regular settlement discussions are ongoing, involving both counsel for the parties and counsel for BGC's insurers. The parties represent that they have been working together earnestly, vigorously, and in good faith to determine whether settlement of the lawsuit is possible.

11. Defense costs spent to litigate this matter erode funds available for settlement under the many of applicable insurance policies. As such, and given the progress at the two prior mediation sessions, the parties believe that their resources are best focused on continuing meaningful settlement discussions rather than expending time and resources in full-scale discovery that may prove unnecessary. As such, the parties respectfully request that the Court extend the existing stay and order the parties to provide a status update by June 27, 2014.

12. The parties are mindful of the Court's need to move litigation forward and represent that this request is not interposed for purposes of delay. The parties are working earnest and in good faith to see if there is a way to resolve this matter without needlessly wasting the time and resources of the Court as well as the parties.

13. A proposed order granting this motion is attached hereto as **Exhibit A**.

14. Alternatively, if the Court does not agree that the requested stay will promote efficiency, the parties jointly request that the Court enter the agreed schedule set for in **Exhibit B**.

WHEREFORE, the parties jointly request that the Court continue the existing stay through and including June 27, 2014, at which time the parties will provide a status update on the progress of mediation on June 23, 2014. Alternatively, the parties request that the Court enter the proposed litigation schedule included in Exhibit B.

Respectfully submitted, this 2nd day of May, 2014.

/s/  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 2nd day of May, 2014, I electronically filed the foregoing JOINT STATUS REPORT AND MOTION TO CONTINUE TEMPORARY STAY OF PRETRIAL DEADLINES with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to all record.

\_\_\_\_\_/s/\_\_\_\_\_  
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